

UPDATES ON PRIOR ISSUES & RECOMMENDATIONS

CHAPTER 4

BLOOD SAMPLES TAKEN BY FORCE

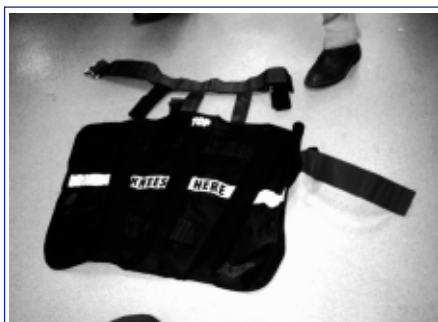
Background: In the IPA's 1997 Year End Report, the IPA reported on the problem that arose when police attempted to take a blood sample from a suspect that was uncooperative or combative. The complaints alleged that blood samples were taken against the person's will at a place not suited or appropriate for the safe and sanitary taking of blood.

A closer review of SJPd policy and guidelines determined that suspects that were cooperative would be taken inside the processing center where blood would be drawn by a technician in a clean well lighted holding cell. Suspects that were not cooperating or were being combative on the other hand, were not allowed inside the preprocessing center. Combative suspects, while handcuffed with their hands behind their back,

would be forced over the hood of a patrol car by officers or on the ground where a technician would extract the blood. Other combative suspects were taken to the county jail and had their blood drawn at the jail parking lot.

The IPA concluded that the parking lot of the preprocessing center and the county jail were not a medically acceptable environment. The parking lots are poorly lit, the ground is dirty and equipment such as arm boards which reduce the risk of infection or injury to the subject's veins or tissue were not available. This practice also increased the risk of harm to the technician and the officers.

The IPA recommended that when taking blood specimens as evidence relevant to the crime at hand, the San José Police Department should do so in a medically accepted environment,



WRAP Restraint System.



Restraint Chair used for overly combative suspects.

according to accepted medical practices and without excessive force.

Update: Presently, the Police Department no longer takes blood samples from suspects at either of the aforementioned lots. The Police Department has instituted a new procedure and amended the duty manual section addressing the taking of blood samples from suspects.³

The current procedure is to put the combative, handcuffed suspect in a body restraint system called a WRAP, before bringing them into the preprocess-
ing center. The WRAP consists of nylon/velcro straps and belts that wrap the person from the

waist to their feet and keeps the suspect from bending at the knee. The suspect will then be brought into holding cell number two.

The lower straps of the WRAP will be loosened so that the suspect can bend at the knees slightly and enable him to sit at the table. One arm is then extended over the table and cuffed to the end of the table. The technician will then draw blood from the suspect. The holding cells are clean and well lit.

Alternatively, the officers may put the suspect in a specially designed chair equipped with restraints. Once the suspect is restrained in the chair, the officers may roll the suspect into holding cell number two to have

³ BLOOD TESTS: APROPRIATE LOCATIONS FOR THE EXTRACTION OF BLOOD SAMPLES: Officers must ensure that not only will blood samples be taken in a medically approved manner, but under conditions which will not expose officers, suspects or other persons to contaminated blood (HIV, AIDS, etc.), or invite personal risk of infection or injury. Appropriate locations for the consensual extraction of blood samples would include police facilities, medical hospitals or clinics, county jail, and the Alcohol Investigations Bureau (A.I.B). Locations such as patrol cars, parking lots, or outdoor areas are not suitable locations for blood extractions.

The San José Pre-Processing center, Holding Cell #2, is specifically equipped for the taking of blood samples from physically resistive or combative persons. This specific cell is equipped with a stainless steel table designed for obtaining blood samples. Also readily available is a mobile restraint chair, which can be quickly set up in Holding Cell #2 for those situations where a blood sample needs to be obtained from an extremely resistive or combative person.

the suspect's blood drawn. Blood may also be drawn in the central area of the preprocessing center while the suspect is in the chair and the arm is restrained in an extended position.

The IPA commends the SJPD on their new procedures which address the concerns referred to in the 1997 Year End Report. Since the implementation of the new procedures, no complaints alleging the forcible extraction of blood have been filed. The IPA will continue to monitor and report on any further complaints regarding the drawing of blood samples in future reports.

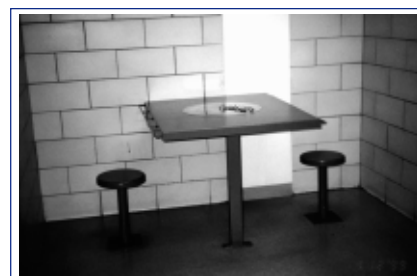
CITIZEN REQUEST FOR OFFICER IDENTIFICATION

Background: In the IPA's 1996 Year End Report, the IPA reported about the problem that arose when citizens requested identification from police officers.

Some complainants alleged that the officer did not identify himself/herself adequately when requested to do so. Others complained that the officer took retaliatory measures after being requested to give his/her name or badge number. The retaliatory conduct alleged ranged from threats of arrest to unnecessary use of force. The SJPD Duty Manual directed officers to identify themselves in a professional manner, but did not require officers to do so in writing.

The IPA's recommendation was to have the SJPD issue business cards to each officer so that they could use it to identify themselves, and thereby minimize conflict with citizens. The IPA also recommended that the entire process of officer identification be revised.

Update: The SJPD has instructed its officers to complete a newly



Blood extraction of combative suspects now takes place while suspects are handcuffed to the table

SAN JOSE POLICE DEPARTMENT - INCIDENT CARD	
Records Division, 201 W. Mission St., San José, CA 95110	
CASE NUMBER: _____	DATE: _____
TYPE OF INCIDENT: _____	
OFFICER/BADGE #: _____	REPORT TAKEN: <input type="checkbox"/> YES <input type="checkbox"/> NO
ADDITIONAL TEL. NO(S): _____	
<p>INSTRUCTIONS: Retain this report receipt! You will need this information for your contact with the San José Police Department, your Insurance report, and tax purposes. For three or more additional stolen items, please report by mail using the above case number. To supply additional information concerning suspects, witnesses or victims, phone the San José Police Department Non-Emergency Line (277-8900). Under the joint powers agreement between the City of San José and the County of Santa Clara, for the purposes of Investigation and victim assistance, Information from your report may be entered into the Records Index System (R.I.S.). A fee will be charged for a copy of this report.</p> <p>INSTRUCCIONES: Guarde este recibo del reporte! Usted necesitará esta información para cuando se comunique con el Departamento de Policía de San José, para el reporte de su seguro, y para el reporte de sus impuestos. Para reportar tres o más adicionales artículos robados, favor de usar el correo y refierase al número del caso. Para dar más información con respecto a sospechosos, testigos, o víctimas, llame a la línea sin emergencia del Departamento de Policía de San José (277-8900). Bajo el acuerdo conjunto entre la Ciudad de San José y el Condado de Santa Clara, para propósitos de investigación y asistencia a las víctimas, información de su reporte puede ser incorporada al <i>Records Index System (R.I.S.)</i>. Se cobrará por una copia de este reporte.</p> <p>20Q-45A (7/98)</p>	
CHIEF OF POLICE	

SJPD Incident Card

created "incident card" when they are asked to identify themselves and give it to the person making the request. The incident card requires the officers to fill in information relating to the incident including the officer's own badge number. The new incident card shows promise, and the IPA will monitor the success of this new method of officer identification.

NEW COMPUTER SYSTEM

Background: In order to make the sharing of complaint information between the offices more efficient, a new computer link-up between the IPA and the PSCU was studied and designed. A system was devised with the help of an outside consultant, police personnel, and city computer data managers.

Update: Due to technical difficulties, the link-up was not completed as scheduled. However, the new database is now operational and has been tested. Training on the new system has been ongoing and will continue even after the link-up is completed. Computer programmers have been working to address glitches on the new system that have prevented it from becoming fully operational. It is expected that the system will be fully operational within weeks of the writing of this report.

ON SCENE INVESTIGATIONS FOLLOWING A USE OF FORCE

Background: In the 1994 Year End Report, the IPA reported on the need for the preservation of physical evidence whenever force was used by a SJPd officer. The IPA noted that most of the investigations conducted by the PSCU were evaluated and resolved primarily on the basis of individual's testimony. The testimonial evidence would usually come from complainants, subject officers and/or witnesses. Cases were thus resolved solely on the bases of the individual's credibility. Often there was no unbiased witness to the incident who could provide information. The only available evidence consisted of the complainant's word against the subject officer's. Regardless of how the case was resolved however, there was always a cloud of doubt hanging

over the finding. The need for the collection of physical and testimonial evidence from the scene was apparent.

The IPA recommended that when anyone had to receive medical attention because of an officer's use of force, the supervisor at the scene should be responsible for the collection and preservation of evidence. The focus of the supervisor should be on the gathering of evidence that addresses the need for the use of force, rather than the crime at hand.

In 1995, the SJPd adopted the IPA's recommendation. The supervising officers are now required to conduct an investigation when force requiring medical attention has been used by an SJPd officer.

Update: The IPA conducted a special audit of cases investigated after the new procedure was set in place to determine

whether physical evidence is being collected adequately and how closely the new procedures are followed. A study of all the Unnecessary Force complaints audited during 1998 revealed that supervisors were required to respond to the scene and collect evidence 67 times. The IPA audit found that supervisors responded to only 39 incidents and wrote a separate report on only 26 occasions. For further results of the special audit, refer to the section titled Special Audit of Unnecessary Force Cases in Chapter 11 of this report.

Recommendation:

Class I Use of Force cases are the most serious type of complaints and warrant that a supervisor respond to the scene. Though the completion of a written report is not mandatory, a supervisor's report would be of great use in future investigations.

TIMELINES

During the last five years, different goals have been established for the completion of the investigation of complaints. Since the inception of the IPA, the time taken to complete an investigation has been tracked and statistically analyzed. While the PSCU has made changes and improved on the time it takes them to investigate a complaint, other departments of the SJPd have not. Consequently, the PSCU may investigate a case in a timely fashion but when forwarded to another department for processing, the case is delayed. In 1998, 15% of the cases were not completed in a timely fashion.

The complainants and subject officers are affected by the uncertainty of the outcome of the complaint process, and both have expressed their dissatisfaction with what are viewed as unreasonable delays. Adding to

the need for a timely investigation is a recent change in California law which mandates that investigations be completed within one year of the filing of the complaint; otherwise, no discipline can be imposed on the subject officer.

In the 1997 Year End Report, the IPA recommended that timelines be established for every department involved in a citizen complaint. This includes the time spent at all other departments outside of the PSCU, and should be reduced from one year to no more than ten months. This would give the Police Department sufficient time to comply with any IPA requests for further investigation.

The IPA also recommended that time limits and a reliable tracking system be implemented for every bureau and department involved in the complaint process.

Update: The SJPd has responded to the recommendations by setting new standards for the timely completion of its investigations. The new goal is to complete all investigations within ten months of the date they were initiated.

The PSCU has also responded by developing a new computer based system which tracks the status of complaints. The computer tracking system lets the PSCU know where and how long a complaint has been at a particular department or unit. Furthermore, the commander of the PSCU now assumes responsibility for ensuring that a complaint will not be delayed while at a department outside the PSCU. The SJPd's responses are encouraging. The IPA will monitor the newly implemented procedures during 1999 to evaluate their effectiveness.

